

REMARKS

This Amendment is submitted in reply to the final Office Action mailed on April 19, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-338 on the account statement.

Claims 1-33 are pending in this application. In the Office Action, Claims 7, 13 and 29 are rejected under 35 U.S.C. §112, second paragraph, Claims 1-31 are rejected under 35 U.S.C. §102 and Claims 1-31 are rejected under 35 U.S.C. §103. In response Claims 1, 6, 13, 20-24, 27-29 and 31 have been amended, and Claim 7 has been canceled. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicant respectfully submits that the rejections should be withdrawn.

In the Office Action, Claims 7, 13 and 29 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In response, Applicant has canceled Claim 7 and amended Claim 29 to address the informalities cited by the Patent Office. Based on at least these noted reasons, Applicant believes that Claims 7, 13 and 29 fully comply with 35 U.S.C. §112, second paragraph.

Accordingly, Applicant respectfully requests that the rejection of Claims 7, 13 and 29 under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 1-31 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,776,524 to Reinhart ("*Reinhart*"). Applicant respectfully disagrees with and traverses this rejection for at least the reasons set forth below.

Applicant has amended independent Claims 1, 6, 13, 20-24, 27-28 and 31 to recite, in part, methods for improving or maintaining the skin and coat system of a pet to a pet in need of same. The amendment is supported in the specification, for example, at page 1, lines 8-15 and lines 33-36. Applicant requests that this amendment be entered as it does not raise any new issues. Contrary to the claims as currently amended, *Reinhart* fails to disclose or suggest any methods for improving or maintaining the skin and coat system of a pet to a pet in need of same.

Applicant respectfully disagrees with the Patent Office's inherency assertion that because *Reinhart* allegedly teaches the nutritional feeds and steps of the claimed methods, *Reinhart* discloses the claimed invention. To satisfy the test for inherency, nutritional feeds of *Reinhart* would necessarily (i.e. always or automatically) improve or maintain the skin and coat system of a pet. That condition simply is not met under the present circumstances. For example, *Reinhart* fails to disclose or suggest a pet in need of improving or maintaining its skin or coat systems. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. See, MPEP 2112.

The claimed methods are directed to for improving or maintaining the skin and coat system of a pet in need of such treatment. As a result, the methods require, in part, feeding or administering a nutritional composition to a pet having skin or coat system deficiencies in accordance with the present claims. At no point does *Reinhart* disclose or suggest any methods of feeding or administering compositions to a pet suffering from skin or coat system deficiencies.

For the reasons discussed above, Applicant respectfully submits that Claims 1-29 are novel, nonobvious and distinguishable from the cited reference. Accordingly, Applicant respectfully requests that the rejection of Claims 1-31 under 35 U.S.C. §102 be withdrawn.

In the Office Action, Claims 1-31 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Reinhart* in view of *LABDIET '98*, WO 9856263 to Marsh et al. ("*Marsh*"), U.S. Patent No. 6,156,355 to Shields et al. ("*Shields*") and EP 850569 to Ballevre et al. ("*Ballevre*"). Applicant believes this rejection is improper and respectfully traverses it for at least the reasons set forth below.

Applicant respectfully submits that, even if combinable, all of the claimed elements are not taught or suggested by the cited references. For example, *Reinhart*, *LABDIET '98*, *Marsh*, *Shields* and *Ballevre* all fail to disclose or suggest Applicant's claimed methods for improving or maintaining the skin and coat system of a pet in need of same using, for example, prebiotics and/or probiotics.

Applicant has surprisingly found that administering to a pet having skin or coat system deficiencies a nutritional agent that promotes the growth of bifido- and lactic-bacteria in the gastro-intestinal tract of the pet improves, or at least maintains, the condition of the skin and coat system of the pet. Experiments using trained evaluation panels were performed to evaluate the

skin and coat condition of pets that were fed the pet food compositions in methods of the present invention. Parameters evaluated by the panelists included visual parameters, touch parameters, and odor parameters. A full sample range of dogs/cats were selected. Pets that were fed pet foods having the pre-biotics or probiotics were found to have, for example, increased coat shininess, coat softness, skin hydration score and skin elasticity.

Reinhart, LABDIET '98, Marsh, Shields and *Balleve* are not even concerned with any methods for improving or maintaining the skin and coat system of a pet in need of same using prebiotics and/or probiotics as taught by Applicant. *Reinhart, LABDIET '98, Marsh, Shields* and *Balleve* fail to recognize a problem that Applicant's invention solves or advantages that Applicant's invention has. In fact, the Patent Office has failed to show any evidence in the cited references regarding improving or maintaining the skin and coat system of a pet in need of same or the step of feeding or administering to the pet a nutritional composition for improving or maintaining the skin and coat system. Moreover, *Reinhart, LABDIET '98, Marsh* and *Shields* provide no teaching, guidance or experiments as to methods for improving or maintaining the skin and coat system of a pet using prebiotics and/or probiotics as Applicant has done. As a result, the cited references are deficient with respect to the presently claimed methods.

For the reasons discussed above, the combination of *Reinhart, LABDIET '98, Marsh, Shields* and *Balleve* does not teach, suggest, or even disclose all of the elements of the present claims, and thus, fails to render the claimed subject matter obvious.


Accordingly, Applicant respectfully requests that the obviousness rejection with respect to Claims 1-31 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicant respectfully requests reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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